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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

THE PEOPLE,

Plaintiff and Respondent,

v.

ANGELA MARIE PELLIGRA,

Defendant and Appellant.

C081811

(Super. Ct. No. 62-141496A)

A jury found defendant Angela Marie Pelligra guilty as charged of a single count of fraudulent possession of personal identifying information of 10 or more victims. (Pen. Code, § 530.5, subd. (c)(3).)¹ Defendant then admitted five prior prison terms. (§ 667.5, subd. (b).) The trial court struck four of the five priors and sentenced her to the low term of 16 months in prison plus one year consecutive for the remaining prior.

¹ Further undesignated statutory references are to the Penal Code.

Defendant timely appeals. Her sole claim is that insufficient evidence supports the requisite intent for conviction. Disagreeing, we affirm.

FACTS

Following the well-established rule of appellate review, we recite the facts in the light most favorable to the judgment. (*People v. Bogle* (1995) 41 Cal.App.4th 770, 775.)

At approximately 8:30 a.m. on October 17, 2015, Rocklin Police Officer John Constable was on patrol when he noticed a white van with an unpainted license plate and no “month or year sticker” (presumably meaning registration). The van turned into the parking lot of Oracle, a closed business. Constable conducted a traffic stop and spoke with defendant, the driver and sole occupant of the van. Constable asked defendant where she was coming from; she replied: “ ‘We were coming from the store, then we decided we needed to go to Western Union.’ ” Constable asked, “[W]ho’s we?” and defendant answered, “ ‘Well, I meant I needed to go to the store – well, Western Union.’ ” Defendant said she was from Lathrop and was in the area visiting friends at “the casino.” Constable asked defendant for permission to search the van, which she gave him. Constable looked through the passenger side window and noticed a stack of approximately five pieces of mail located on the van’s center console.

Constable handed Officer Roemmich, who had arrived to help him, the stack of mail found on the center console. In it was a gift card addressed to a female. Roemmich searched the entire van and found more mail in a cardboard box behind the driver’s seat. The majority was bulk mail, which Roemmich described as “coupons and stuff.” The box also contained mail addressed to various people at addresses in the 5725-5733 area of River Run Circle in Rocklin. There was also a wallet in the front of the van under the carpet, containing a credit card and other information with an entirely different male’s name on it.

Defendant told Roemmich she had given two men a ride to Thunder Valley Casino, where they were “hanging out.” She knew one man as “Thomas” and the other not at all. She claimed the two men took the van at 1:00 a.m. from the casino, and when they returned the mail was in the van. She told Roemmich the name and room number of the hotel where the two men were staying. Another officer went to River Run Circle and found a group mailbox in that area pried open and emptied.

At approximately 9:30 p.m. that same day, Officer Sartain was on patrol when he saw Andrew Sullivan and Thomas Melger outside a closed business approximately three miles from where defendant had been stopped that morning. Sartain found a check for more than \$3,000 in Sullivan’s wallet. The name “Andrew Sullivan” was written over “Cycle Sports Center” in the “pay to the order of” portion of the check.

Melger refused to give a statement. As relevant to defendant’s case and claim on appeal, Sullivan admitted acquiring the check as a result of breaking into mailboxes and that he and Melger had used a white van; they “got it from Angela [defendant].” About defendant, Sullivan told Sartain that “they had just met, and it was more of [Melger] had a relationship with [defendant].” Sartain clarified that “neither of them got into detail about the relationship with [defendant].”

While in custody pending trial, defendant made various statements in recorded jailhouse telephone calls to unidentified persons regarding the circumstances surrounding her arrest. As relevant here, in a call recorded November 1, 2015, she said she gave Sullivan and Melger a ride to the casino, after which they borrowed the van. Although she claimed she “didn’t even know these people,” she added: “I didn’t want to go driving around with them in the van, so I let him just take it. You know. But I want the money, but I didn’t want to go driving around with them, so I let them” She also told the caller that she had given the police the men’s names (who took the van) as “Thomas” and “Andrew.”

In a call recorded on November 13, 2015, she explained that when the arresting officer looked in her van and “found the bag of trash” and asked to whom it belonged, she told the officer, “I really don’t know . . . somebody named Andrew and Thomas, I gave them a ride and they left that in here”

DISCUSSION

Defendant does not challenge the evidence that she possessed the requisite number and type of identifying information required for conviction. She contends, however, that there was insufficient evidence that she had the *specific intent to defraud* the victims through the *use* of the information contained in the stolen mail.

Section 530.5, subdivision (c)(3) provides in relevant part: “Every person who, with the intent to defraud, acquires or retains possession of the personal identifying information, as defined in subdivision (b) of Section 530.55, of 10 or more other persons is guilty of a public offense”

To assess the sufficiency of the evidence, we review the whole record to determine whether it discloses substantial evidence to support the verdict--i.e., evidence that is reasonable, credible, and of solid value--such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Maury* (2003) 30 Cal.4th 342, 396.) “The standard is the same, regardless of whether the prosecution relies mainly on direct or circumstantial evidence.” (*People v. Vazquez* (2009) 78 Cal.App.4th 347, 352.) In applying the standard, we review the evidence in the light most favorable to the prosecution and presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence. (*People v. Boyer* (2006) 38 Cal.4th 412, 480.) “ ‘[I]f the circumstances reasonably justify the jury’s findings, the judgment may not be reversed simply because the circumstances might also reasonably be reconciled with a contrary finding.’ [Citation.] We do not reweigh evidence or reevaluate a witness’s credibility. [Citation.]” (*People v. Guerra* (2006) 37 Cal.4th 1067, 1129.)

These last three points are particularly critical in the instant case, where the evidence of defendant's intent is based largely on circumstantial evidence which defendant's briefing consistently implies we should reweigh.

“ ‘An intent to defraud is an intent to deceive another person for the purpose of gaining a material advantage over that person or to induce that person to part with property or alter that person's position by some false statement or false representation of fact, wrongful concealment or suppression of the truth or by any artifice or act designed to deceive.’ (*People v. Pugh* (2002) 104 Cal.App.4th 66, 72, citing *People v. Booth* (1996) 48 Cal.App.4th 1247, 1253.) In *Booth*, the court further explained: ‘ “ ‘Intent to defraud is an intent to commit a fraud.’ [Citation.] “ ‘Fraud’ ” and “dishonesty” are closely synonymous. Fraud is defined as “a dishonest stratagem.” [Citation.] It “may consist in the misrepresentation or the concealment of material facts” [citation], or a statement of fact made with “conscious[ness] of [its] falsity.” ’ ” ’ (*Booth*, at p. 1253.)” (*People v. Bollaert* (2016) 248 Cal.App.4th 699, 715.) “Specific intent to defraud is often proven by circumstantial evidence; it is thus typically inferred from all of the facts and circumstances.” (*Ibid.*)

Here, as explained *ante*, defendant was stopped under suspicious circumstances (pulling her van into a closed business late at night and then claiming to be headed elsewhere) and spoke to the officer as though she was regularly accompanied by others (referencing herself multiple times as “we”). The van contained a box of bulk mail in the back, but also a short stack of mail next to defendant with a gift card (in the name of an unconnected female) on top of the stack. The van, which defendant admitted was hers, also had a wallet with another (unconnected) person's information on the front floorboards. Defendant told Officer Roemmich she had given two men a ride to the casino, and that she only knew one of them by his first name, Thomas. Yet, she knew the name and room number of the hotel where the men were staying and, according to Sullivan, she had some sort of relationship with Melger. She admitted in the recorded

calls that she knew both men's names at the time she encountered the officers, saying that she told the officers she had been with "Thomas and Andrew." In the call recorded on November 1, she admitted permitting Sullivan and Melger to use the van, knowing they were going to use it to somehow obtain "the money," and that she wanted "the money" but did not want to drive around with the men.

From all of this evidence taken together, a reasonable jury could easily infer that defendant knew about the intended theft and had the required intent to use the identifying information remaining in her van to defraud others. The fact that Sullivan was caught in possession of an altered check (originally made out to someone else and which he admitted originated in the stolen mail) and the presence of the pile of mail and gift card next to defendant when she was stopped also suggest the mail was sorted earlier, as does the presence of "bulk" mail (to which defendant repeatedly referred as "trash") in a box in the rear of the van.

Defendant claims there is no direct or circumstantial evidence of her specific intent to defraud. First, she claims Sullivan's statements to law enforcement confirmed that she had nothing to do with the mail theft.² But although Sullivan told Officer Sartain that he and Melger "were the only two there" during the theft of the mailboxes, as Sartain testified, Sullivan did not detail any other aspect of defendant's involvement or lack of involvement in the theft of mail. As we have discussed *ante*, other evidence points toward her involvement in the charged crime in ways other than directly participating in the theft itself.

Defendant further claims the evidence demonstrated she showed no consciousness of guilt, made no attempt to deceive anyone, consented to the search of the van, and was forthcoming regarding the location of Sullivan and Melger. Assuming (without agreeing)

² The parties stipulated that Sullivan was unavailable to testify pursuant to Evidence Code section 240.

that this description of the evidence is accurate, whether other evidence could *potentially* lead to a different verdict when heard, weighed, and assessed for credibility by the finder of fact at trial is not the test of sufficiency. As we have described above, our task is not to assess credibility, reweigh the evidence, or consider contrary conclusions that *could* have been reached by the jury, but were not.

Defendant contrasts the strength of the evidence presented in her trial to that explained in *People v. Valenzuela* (2012) 205 Cal.App.4th 800, but the comparison is not apt. *Valenzuela* does not concern, much less analyze, the sufficiency of the evidence. Defendant argues the circumstantial evidence of intent to defraud in *Valenzuela*--lying to law enforcement and being in possession of personal identifying information containing Social Security numbers and credit card information--is in stark contrast to the evidence here.³ She adds that she was cooperative; she did not lie to the officers and she consented to a search of the van and assisted officers in locating Sullivan and Melger. She points out that the mail in her possession contained nothing more than names and addresses.

Although the evidence of Valenzuela's intent was arguably more robust than that seen in the instant case, the evidence here is sufficient. As illustrated by our description of the evidence presented at trial, defendant's recorded statements and other actions were not always consistent with her earlier statements to officers. She does not dispute that she was in possession of personal identifying information as defined by the statute, regardless of its type. She had a gift card in someone else's name beside her in the van, a

³ Valenzuela was nervously standing in a dark alley behind a motel, in possession of a stolen driver's license and a printout from a website advertising the sale of personal identifying information. The printout contained the words, " 'Hack Credit Card Numbers' " and the names of three people, along with credit card information, birthdates, Social Security numbers, telephone numbers, and addresses for each of them. (*People v. Valenzuela, supra*, 205 Cal.App.4th at pp. 802-803.) Valenzuela told officers he was visiting a friend, gave them a false name, and told them falsely the driver's license belonged to an acquaintance. (*Ibid.*)

wallet belonging to someone else on the floor, and more stolen mail in the back. She told someone on the phone that although she did not want to drive around with the others, she let them drive her van because she wanted the money. This is direct evidence of her intent, and together with the circumstantial evidence it is sufficient to prove her guilt.

DISPOSITION

The judgment is affirmed.

/s/
Duarte, J.

We concur:

/s/
Raye, P. J.

/s/
Hull, J.